	Case 3:13-cv-00433-MMD-WGC Document	47 Filed 11/25/14	Page 1 of 7	
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6	UNITED STATES	DISTRICT COURT		
7	DISTRICT	OF NEVADA		
8				
9	ANTHONY CROSS,	3:13-cv-0	00433-MMD-WGC	
10	Plaintiff,		ORDER	
11	vs.	R	e: Doc. # 29	
12	RON JAEGER, et al.,			
13	Defendants.			
14	,			
15	Before the court is Plaintiff's motion to Unseal Defendant Cheryl Burson's Last Known Addres			
16	(Doc. #29, corrected in Doc. #31). Plaintiff states that because Defendant Burson's last known address			
17	is a post office box, the U.S. Marshal was unable to	serve her. Plaintiff wa	ants to attempt to effect service	
18	by mailing the summons and complaint to the Def	endant to attempt to as	certain whether the defendant	
19	would accept service by mail, as is authorized by	Fed. R. Civ. P. 4(d).		
20	Defendant in response argued Burson, a	former employee of	f the Nevada Department of	
21	Corrections (NDOC), could be harassed if an N	OOC inmate had acce	ss to the employee's address	
22	Addresses of present and former NDOC employe	es are considered conf	idential information which ar	
23	inmate is not allowed to possess. Defendants also	o contended disclosure	e "poses a safety and security	
24	concern" and stated "Plaintiff has other methods available to him to obtain service other than a waiver.			
25	Defendants do not identify any "other methods," h	nowever.		
26	Subsequent to the filing of the Defendants'	response, the court dir	ected Defendants to commen	
27	on whether the last known mailing and physical add	resses of Defendant Bu	urson have already been placed	
28	in the public domain by reason of certain filings the	Office of the Attorney	General made in another case,	

<sup>1</sup> Refers to court's docket number.

3:12-cv-00322-MMD-WGC (Doc. #33). Defendants thereafter filed their Supplemental Opposition to Plaintiff's Motion, (Doc. #35). Defendants argued the filings in the case to which the court referred were necessitated by the unique situation which arose as to the Attorney General's representation of Ms. Burson and should not be considered precedent for disclosure in this matter.

Plaintiff replied (Doc. # 37). Plaintiff argued that because Burson's address has been published, any security concerns regarding her address have dissipated.

The Court generally accedes to the policies of the Nevada Department of Corrections and the Office of the Nevada Attorney General that addresses of current and past employees of NDOC present possible security or harassment concerns for the employee. However, the filings in the 3:12-cv-00322 case suggest that Ms. Burson no longer resides in the United States and that the post office box address filed under seal is utilized as a forwarding address. Thus, the harassment and/or security concerns are alleviated, particularly where the information has already been placed in the public domain.

As noted above, Defendants state that "Plaintiff has other methods available to him to obtain service other than a waiver." Defendants in their Supplement Response again do not suggest any alternative methods of service available to Plaintiff. While it is doubtful from the information which is available from case 3:12-cv-00322 that Ms. Burson will accept service of process by mail, the court believes Plaintiff is at least entitled to make that attempt. Nevertheless, the court will not unseal Defendant Burson's mailing address in this case and in that respect, Plaintiff's motion (Doc. # 29) is denied in part. However, the court will craft an alternative procedure Plaintiff may employ to be able to attempt to effect service by mail, and in that respect, Plaintiff's motion is granted in part, as follows:

Plaintiff shall comply with the terms and provision of Fed. R. Civ. P. 4(d), including completion of the "Notice" form (Form 5) in Rule 4(d)(1)(D), a copy of which accompanies this order.<sup>2</sup> In addition to the other materials required by Rule 4, Plaintiff shall include a proposed Waiver of Service form (Form 6) to be completed by Defendant Burson should she consent to service under Rule 4. Plaintiff shall then deliver a suitable envelope with sufficient U.S. Postage to the Warden's Office, Ely State Prison, along with a copy of this Order. The Warden's Office shall thereupon place Defendant Burson's

<sup>&</sup>lt;sup>2</sup> The certification of service by mail upon Defendant Burson shall be signed and dated by Plaintiff and shall be deemed effective as of the date Plaintiff delivers it to the Warden's Office for mailing.

	Case 3.13-cv-00433-MMD-WGC Document 47 Filed 11/25/14 Page 3 of 7					
1	last known address on the envelope and promptly place the envelope in the U.S. Mail.					
2	Plaintiff's motion (Doc. #29) is <b>GRANTED IN PART</b> and <b>DENIED IN PART</b> , consistent with					
3	this Order.					
4	IT IS SO ORDERED.					
5	DATED: November 25, 2014.					
6	WILLIAM G. COBB					
7	UNITED STATES MAGISTRATE JUDGE					
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AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DIS	TRICT COURT	
District of Neva	ada	
	Civil Action No.	
Defendant  NOTICE OF A LAWSUIT AND REQUEST TO	WAIVE SERVICE OF A SUMMO	NS
To:  (Name of the defendant or - if the defendant is a corporation, partnership, or	association - an officer or agent authorized to	receive service)
Why are you getting this?		
A lawsuit has been filed against you, or the entity you repr A copy of the complaint is attached.	esent, in this court under the number	shown above.
This is not a summons, or an official notice from the court. service of a summons by signing and returning the enclosed waiver waiver within days (give at least 30 days, or at least 60 days if the defrom the date shown below, which is the date this notice was sent. a stamped, self-addressed envelope or other prepaid means for returning the enclosed waiver.	To avoid these expenses, you must refendant is outside any judicial district of the Two copies of the waiver form are enc	return the signed <i>United States)</i> losed, along with
What happens next?		
If you return the signed waiver, I will file it with the court. on the date the waiver is filed, but no summons will be served on y is sent (see the date below) to answer the complaint (or 90 days if t the United States).	ou and you will have 60 days from the	e date this notice
If you do not return the signed waiver within the time indicates served on you. And I will ask the court to require you, or the entity	ated, I will arrange to have the summon you represent, to pay the expenses of	ns and complaint f making service.
Please read the enclosed statement about the duty to avoid	unnecessary expenses.	
I certify that this request is being sent to you on the date be	low.	
Date:	Signature of the attorney or unrepres	sented party
_	Printed name	
_	Address	
<u>-</u>	E-mail address	

 $Telephone\ number\ .$ 

Case 3:13-cv-00433-MMD-WGC Document 47 Filed 11/25/14 Page 6 of 7

AO 399 (01/09) Waiver of the Service of Summons

Plaintiff   V.     Civil Action No.	UNITED STATES	DISTRICT COU	RT	٠.
WAIVER OF THE SERVICE OF SUMMONS  To:				
WAIVER OF THE SERVICE OF SUMMONS  To:				: .
WAIVER OF THE SERVICE OF SUMMONS  To:			and the state of t	2
WAIVER OF THE SERVICE OF SUMMONS  To:				:
WAIVER OF THE SERVICE OF SUMMONS  To:  (Name of the plaintiff's attorney or unrepresented plaintiff)  I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.  I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.  I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.  I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from  the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.  Date:  Signature of the attorney or unrepresented party  Printed name  Address	Plaintiff	<b>)</b>		
WAIVER OF THE SERVICE OF SUMMONS  To:	<b>v.</b>	) Civil Action No.		
WAIVER OF THE SERVICE OF SUMMONS  To:	Dafandant	)		
To:	Dejendum	,	•	
(Name of the plaintiff's attorney or unrepresented plaintiff)  I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.  I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.  I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.  I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from	WAIVER OF THE SE	CRVICE OF SUMMONS		
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United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.  Date:  Signature of the attorney or unrepresented party  Printed name of party waiving service of summons  Printed name  Address	I also understand that I, or the entity I represent, mu	ast file and serve an answer	or a motion under Rule 12 within	1
Date:  Signature of the attorney or unrepresented party  Printed name of party waiving service of summons  Printed name  Address				
Signature of the attorney or unrepresented party  Printed name of party waiving service of summons  Printed name  Address	United States). If I fail to do so, a default judgment will be	entered against me or the en	ntity I represent.	
Signature of the attorney or unrepresented party  Printed name of party waiving service of summons  Printed name  Address				
Printed name of party waiving service of summons Printed name  Address	Date:			_
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Address				
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## Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.